IN THE

Supreme Court of the United States

OCTOBER TERM, 1952

No. 194

INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, CIO,
An Unincorporated Voluntary Association,
Petitioner,

vs.

GEORGE HUFFMAN, Individually, and on Behalf of a Class, etc.,
Respondents

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

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Assuming, *arguendo*, a question of priority between a class consisting of the bondholders of Company X and a class consisting of the holders of the preferred shares of that company, the matters that may be taken into consideration by those representing the shareholders' class are simplified. The ingenuous soul who proposes in the course of settlement negotiations to pay off all bondholders who serve in the armed forces at one hundred (100) cents on the dollar while the remaining bondholders would get sixty (60) cents on the dollar instead of a tentative eighty (80) would not get very far. The fact that he, himself, was not a veteran and could not be seeking to profit by the proposal might win acceptance of his good faith but not of his judgment.

Also, his complete failure to comprehend his role and the limitations on that role would be most apparent. Some kindly soul might explain to him that the *class* being *represented* were *bondholders as such*. That there are no distinctions between the individual members of the class *as a represented class* which the representative has any right or interest in, nor any right to interest himself in. The collective interest of the represented class which brings them together and makes them a class has no connection with when they were born, nor where; nor what they did before they acquired their bonds; nor what their racial ancestry may be. The color of their skin, their eyes, like the church they attend or the fact that one treasures a medal for regular Sunday School attendance and another has none, are not *relevant differences*. Life begins for mem-

bers of the "class" as of the time they became members of that class. Whether it begins at forty (40) or in 1945, what their individual pre-existing histories may be—while perhaps interesting and even admirable—has nothing whatsoever to do with the creation and existence of the specific class.

Since a representative exists to serve a class in its aspect as a class, it would seem beyond debate that it is an unauthorized assumption of authority for that representative to seek to divide the class and to exercise authority to pick and choose between them. Not only would this seem to be unauthorized, but it is such a negation of the very elements which gave birth to the class which the representative is created to serve as to amount to a betrayal of that highest degree of good faith, that *uberrima fides*, which a representative is customarily held to owe to those whom it serves.

It would seem of the warp and woof of the relationship between those who are represented and the representative that the authority of the representative in the collective bargaining complex is to represent the collective interests of the particular group or class—appropriate *unit* as the Act puts is—as a collection. The representation is not of the individuals or the majority or the minority, but of the entire class or collection as to matters which affect the workers as a class.

While not quite so simple as the circumstances of the representation of the bondholders, the analogy holds in that the representation is of workers as workers; as employees of the particular employer. The cohesive

element that makes the represented workers a group, a *class*, an appropriate *unit*, is the one common factor of employment by the particular employer. Since the Act has banned any control upon who shall be hired and placed such control outside the pale so far as Unions are concerned, whom the employer has hired and what they were before being hired may be of interest to the employer and even may have influenced the hiring, but this is a unilateral interest of the employer and not within the scope of the legitimate interest of the representative.

It would be a most inappropriate thing—exactly what was struck down by this Court in the matter of Wallace Corporation, cited herein—to permit a representative to become such, and then permit it to turn around and lash out at those whose servant the representative has been created to be. The Congress did not intend to create a Frankenstein.

That limits do exist as to what a labor organization may do to those it represents has been made clear by this Court in a number of decisions:

Wallace Corp. v. N. L. R. B., 323 U. S. 248, 65 S. Ct. 238, 89 L. Ed. 216;

Steele v. L. & N. R. Co., 323 U. S. 192, 65 S. Ct. 226, 89 L. Ed. 173;

Tunstall v. Bro. of L. F. & E., 323 U. S. 210, 65 S. Ct. 235, 89 L. Ed. 187;

Graham v. Bro. of L. F. & E., 338 U. S. 232, 70 S. Ct. 14, 94 L. Ed. 22;

Elgin, J. & E. R. Co. v. Burley, 325 U. S. 711, 89 L. Ed. 1886, 65 S. Ct. 1282, and on rehearing 327 U. S. 661, 66 S. Ct. 86, 90 L. Ed. 928.

In Wallace Corp., *supra,* the opinion states:

> "The duties of a bargaining agent selected under the terms of the Act extend beyond the mere representation of the interests of its own group members. By its selection as bargaining representative, it has become the agent of all the employees charged with the responsibility of representing their interests fairly and impartially . . ."

Need it be said that *representing all* fairly and impartially means that the majority is not permitted to do things for or to a minority that sets up arbitrary and irrelevant distinctions or discriminations. That the guiding rule by which to test the motivations of the representative is whether the bargaining power is being exercised in the interest of the entire collection.

Case of Monsieur Henri Wines, Ltd.

The case of Monsieur Henri Wines, Ltd., 44 N. L. R. B. 1310, 11 L. R. R. M. 84, is deserving of some inspection. Here a group of employees (the majority) designated the Distillery, Rectifying and Wine Workers International Union, A. F. L., as their bargaining representative. The union signed a closed-shop agreement with the employer. The applications for membership in the union of all the employees were rejected by the union. They were not permitted to work, and were all replaced by non-employee members of the union. This was prior to the present (amended) Act and a closed-shop agreement was permissible in conformity with the proviso to Section 8(3) of the then (Wagner) Act.

Treating the happenings as the obvious betrayal by the agent of ". . . those upon whose designation its authority to act depended . . ." that it was, the Labor Board struck down the defense that the closed-shop agreement was permitted by the proviso to Section 8(3) and was therefore a defense to the otherwise non-discriminatory discharges.

Without spelling it out too precisely it appears evident that a designated agent upon designation is charged with the duty to represent faithfully the group whose majority has designated the agent. No private axes may be ground, no differing philosophy may be pursued, *no power is obtained except to act in a representative capacity* for the group, class or unit of employees of the particular employer.

ITEM FOUR. *Relevancy* is the true test of whether or not the representative is being true to its trust in the exercise of the representative function in collective bargaining. The authority reposed in the representative is to represent for the purposes of collective bargaining as to "rate of pay, wages, hours of employment, or other conditions of employment" (Section 9 (a) of Act).

Since the representative functioning as such represents a class (or unit appropriate) which may consist of indefinite numbers, ranging from few to many thousands, and in some cases embraces the rates of pay, wages, hours of employment, or other conditions of employment of workers with a thousand different skills and degrees of skill and of varying periods of time spent in the service of the particular employer, in-

numerable differences come into play between the represented workers. Obviously, the problem is not so simple as to negotiate for a class of bondholders where all stand on the same footing as to the value to be fixed for each bond.

The difference between the represented workers are, however, an inherent part of their employment and arise out of and are a part of the job itself. It was of this difference that Steele v. L. & N. speaks:

> "This does not mean that the statutory representative of a craft is barred from making contracts which may have unfavorable effects on some of the members of the craft represented.
>
> "*Variations* in the terms of the contract *based on differences relevant to the authorized purposes of the contract in conditions to which they are to be applied, such as differences in seniorty, the type of work performed, the competence and skill with which it is performed, are within the scope of the bargaining representation of a craft, all of whose members are not identical in their interest or merit.* *Cf.* Carmichael v. Southern Coal & Coke Co., 301 U. S. 495, 509, 510, 512, 81 L. Ed. 1245, 1252-1254, 57 S. Ct. 868, 109 A. L. R. 1327, and cases cited; Washington, *ex rel.* Bond, Goodwin & Tucker v. Superior Ct., 289 U. S. 361, 366, 77 L. Ed. 1256, 1260, 53 S. Ct. 624, 89 A. L. R. 653; Metropolitan Casualty Ins. Co. v. Brownell, 294 U. S. 580, 583, 79 L. Ed. 1070, 1072, 55 S. Ct. 538. Without attempting to mark the allowable limits of differences in the terms of contracts based on differences of conditions to which they apply, it is enough for present purposes to say that *the statutory power to represent a craft and to make con-*

tracts as to wages, hours and working conditions does not include the authority to make among members or the craft discriminations not based on such relevant differences. Here the discriminations based on race alone are obviously irrelevant and invidious. Congress plainly did not undertake to authorize the bargaining representatives to make such discriminations. *Cf.* Yick Wo v. Hopkins, 118 U. S. 356, 30 L. Ed. 220, 6 S. Ct. 1064; Yu Cong Eng. v. Trinidad, 271 U. S. 500, 70 L. Ed. 1059, 46 S. Ct. 619; Missouri, *ex rel.* Gaines v. Canada, 305 U. S. 337, 83 L. Ed. 208, 59 S. Ct. 232; Hill v. Texas, 316 U. S. 400, 86 L. Ed. 1559, 62 S. Ct. 1159.

"The representative which thus discriminates may be enjoined from so doing, and its members may be enjoined from taking the benefit of such discriminatory action. No more is the Railroad bound by or entitled to take the benefit of a contract which the bargaining representative is prohibited by the statute from making." (Italics added.)

The scope of the representative's authority must be tailored to fit that which it is created to serve. That seniority is a condition of employment and as such a proper subject for collective bargaining by the representative is not debatable. Nor is it contended that the representative is prohibited from bargaining for or obtaining a poor or insufficient or unsatisfactory clause. Honest mistakes, errors in judgment, bowing before superior economic force are a part of collective bargaining. However, this is quite different from agreeing to, seeking, bargaining for matters which

are bottomed upon considerations foreign to the collective interests because based upon matters outside the relationship between the represented workers in their class interest and their employer.

Variations which are based upon the skill or ability of a worker at his job; upon his length of service with the particular employer or upon his particular job or in a particular department or division; upon his production rate, or upon the nastiness of a certain operation, or a difference in working hours as a late shift or split hours on Sunday work: these have meaning in terms of evaluating the services rendered. These things are relevant factors of, on and to the job.

How many children a man has; whether he is Caucasian or Negro or Asiatic; whether he has red hair or black; whether he is a farmer, marine, ex-gob, former play boy or conscientious objector, veteran or non-veteran; whether Catholic, Protestant, Mohammedan or Jew; these cannot be weighed in the scales to determine what his rights are as a member of the class. A citizen is a citizen. Just as the Constitution and the Courts strike down as invidious legislative provisions which discriminate between citizens as such; so in the smaller and more restricted area of collective bargaining a worker is a worker and as such may not be discriminated against.

The likening of the bargaining representatives to a Legislature referred to in the Steele case (*Cf.* J. I. Case v. N. L. R. B.) is most apt. In innumerable decisions the courts have held that Legislatures may legislate as to classifications if such classifications are

reasonable and based upon proper and justifiable distinctions. This Court capsulized proper distinctions in Casualty Insurance Co. v. Brownell, 294 U. S. 580, 79 L. Ed. 1070, 55 S. Ct. 538, saying:

> "The ultimate test of validity is . . . whether the differences between them are pertinent to the subject with respect to which the classification is made . . . If these differences have any rational relationship to the legislative command, the discrimination is not forbidden . . ."

The analogy referred to likening the functioning of the representative for the purposes of collective bargaining to that of a Legislature is useful for many purposes. A Legistature represents all the people. Subject to constitutional limitations, it enacts laws. Variations are permissible as to various classifications of persons, but the variations must be based upon differences relevant to the purposes for which the legislative function is being exercised. Arbitrary, capricious or discriminatory legislation not sanctioned by the operative facts giving rise to the legislation are stricken down by the Courts.

In the matter of preferential legislation for veterans, the very factors that called men into military service are among the matters which cause governments to be instituted. The interests of the entire class of citizens has made it necessary to call certain of them into the service of the State. It has been found to be in the public interest to compensate or reward them for services rendered to all and on behalf of all. There is a direct connection between their service and the class the Legislature represents.

The collective bargaining representative does not represent the entire body politic. It does not represent the State nor the Government as such. Its interest attaches, its role begins with the represented persons already employed as workers. In the Lockheed case (Aeronautical Lodge v. Campbell, 337 U. S. 521; 93 L. Ed. 1513, 69 S. Ct. 1287) the propriety of special preference for the Union's leadership—its fighting force—because the welfare of the group or *class* is forwarded and advantaged thereby was upheld. There was a *relevant* relationship.

However, both the Congress and the Union would be in error to legislate giving preference to all veterans named "Jones" just because their name is "Jones." In the case of Congress, its legislation may be for veterans, all veterans, because their status as veterans has a relationship to the purposes for which Congress represents all, veterans and non-veterans alike. Whether any of them are named "Jones" has no such functional relationship. In the case of the Union, it represents workers, and only workers, and only *as workers.* Whether any of them are named "Jones" has no functional relationship, *no relevancy whatsoever.*

Without belaboring any further the points discussed thus far, it would seem axiomatic to say:

1. The Union bargaining collectively for an aggregation of workers is a "representative" created and existing to function in a representative capacity without any right or power to bargain

REASONS FOR GRANTING THE WRIT

1. The Court of Appeals, in reversing the District Court has decided an important and substantial question of federal statutory interpretation which has not been but should be settled by this court.

2. The decision of the Court of Appeals, in giving immediate jurisdiction over unfair labor practices to the federal courts, permits the circumvention of the administrative procedures of the National Labor Relations Board and is in conflict with decisions of federal and state courts all of which assert and recognize the exclusive jurisdiction of the National Labor Relations Board to remedy unfair labor practices.

3. The decision of the Court of Appeals, in holding the seniority provisions here under attack beyond the scope of the normal and usual subjects of collective bargaining contracts, usurps a field reserved to the exclusive jurisdiction of the National Labor Relations Board, namely, to determine the area of lawful collective bargaining between Employers and Unions.

4. The decision of the Court of Appeals is in conflict with those decisions of the National Labor Relations Board which assert an administrative remedy for discrimination by the collective bargaining representative. The decision, therefore, violates the well established doctrine requiring the exhaustion of administrative remedies.

5. The decision of the Court of Appeals, in holding the seniority provisions here under attack to be discriminatory, is in conflict with decisions of the War Labor Board recommending and approving similar seniority provisions.

6. The decision of the Court of Appeals, in holding that the seniority provisions granting all World War II veterans seniority for the period spent in the armed forces are discriminatory and void, so misapplied the case of Steele v. L. & N. Rd. Co., 323 U. S. 192, as to be in conflict with that decision, thus indicating the need for limitation of that case by this court.

7. The decision of the Court of Appeals is in conflict with this court's decision in Aeronautical Industrial District Lodge 727 v. Campbell, 337 U. S. 521, and is also in conflict with its own decision in Britt v. Trailmobile Co., 179 F. 2d 569, Cert. denied, 340 U. S. 820, where Aeronautical Industrial District Lodge v. Campbell, supra, was properly applied.

8. The decision of the Court of Appeals is in conflict with well established state court decisions dealing with seniority rights under collective bargaining agreements. In particular, the decision of the Court of Appeals is in conflict with decisions of the Supreme Court of Michigan on the rights of a labor organization with respect to seniority, thus creating a conflict within the Sixth Circuit on this point of law.

9. The decision of the Court of Appeals, if allowed to stand, will have a wide-spread impact on existing industrial relations, affecting rights of hundreds of thousands of veterans and non-veterans, invalidating hundreds of seniority clauses, and requiring the re-arrangement of hundreds of seniority lists.

ARGUMENT

1. The Court of Appeals, in reversing the District Court has decided an important and substantial question of federal statutory interpretation which has not been, but should be settled by this court.

The Court of Appeals, in deciding this case has determined that the federal courts have immediate jurisdiction to decide whether a collective bargaining representative has breached its statutory obligation of non-discriminatory representation under the Labor Management Relations Act, 1947. The exercise of such jurisdiction circumvents the procedures of the National Labor Relations Board, which is the administrative agency charged with the enforcement of that Act. This case is unlike the *Steele* case which arose under the Railway Labor Act and is unlike the decisions involving veterans' rights under the Selective Training and Service Act. The decision of the Court of Appeals represents the first instance in which the question of whether a collective bargaining representative has breached its statutory obligations has been adjudicated *exclusively* on the basis of rights and obligations arising under the Labor Management Relations Act, 1947. Such a determination represents an instance of federal statutory interpretation which should be passed on by this court.

2. The decision of the Court of Appeals, in giving immediate jurisdiction over unfair labor practices to the federal courts, permits the circumvention of the administrative procedures of the National Labor Relations Board and is in conflict with decisions of federal and state courts all of which assert and recognize the exclusive jurisdiction of the National Labor Relations Board to remedy unfair labor practices.

The Court of Appeals in its opinion has asserted that the federal courts have immediate jurisdiction over a union unfair labor practice. This follows from the assertion by the court in its opinion (R. 36) that the failure of the collective bargaining representative to represent the employees fairly and without discrimination violates the rights guaranteed them by Section 7 of the Labor Management Relations Act, 1947. Thus, the court states:

> "Section 157, 29 U. S. C. provides that employees have the rigth to bargain collectively and 'to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection.' This means that in entering into labor contracts the bargainers must make their agreements with a view to the rights of the entire group bound by them, and not enter into agreements which discriminate against one part for the benefit of another."

This means that discrimination by the collective bargaining representative is an unfair labor practice within the definition of unfair labor practice as found in Section 8 (b) (29 U. S. C., Section 158), which provides:

> "It shall be an unfair labor practice for a labor organization or its agents (1) to restrain or coerce (A) employees in the exercise of the rights guaranteed them in section 7 * * *"

The holding of the Court of Appeals must mean that the alleged failure of the defendant labor organization in the instant case to represent employees without discrimination restrains them in the exercise of the rights guaranteed them by Sec. 7 of the Act. (29 U. S. C., Section 157). In effect the court holds the union guilty of an unfair labor practice and thus is usurping the jurisdiction of the National Labor Relations Board. The Labor Management Relations Act, 1947, sets out the administrative procedures designed to remedy and prevent unfair labor practices. Thus, Sec. 10(a) (29 U. S. C., Section 160) provides as follows:

> "The Board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice (listed in Section 8) affecting commerce."

These procedures have neither been resorted to nor exhausted in the instant case. Numerous decisions have held that these procedures as established by the Act confer upon the National Labor Relations Board exclusive jurisdiction. *California Association v. Building Trades Counsel,* 178 F. 2d 175; *Amazon Cotton Mills Company v. Textile Workers Union,* 167 F. 2d 183 (CA 4); *Amalgamated Association etc. et al., v. Dixie Motor Coach,* 170 F. 2d, 902; *Bakery Drivers Union v. Wagshall,* 333 U. S. 437; *Costaro v. Simons,* 303 N. Y. 318, 98 N. E. 2d, 454; *Wm. P. McNish v. The American Brass Company, et al.,* Supreme Court of Errors of Connecticut, April Term, 1952, 30 L. R. R. M. 2254.

The instant case is in clear conflict with the numerous decisions recognizing the well established doctrine that the National Labor Relations Board has exclusive jurisdiction over unfair labor practices.

3. **The decision of the Court of Appeals, in holding the seniority provisions here under attack beyond the scope of the normal and usual subjects of collective bargaining contracts, usurps a field reserved to the exclusive jurisdiction of the National Labor Relations Board, namely, to determine the area of lawful collective bargaining between Employers and Unions.**

The Court of Appeals, in its opinion, states as follows:

> "All such veterans who subsequent to June 21, 1941, have served a longer time in the armed forces than Huffman and those similarly situated are given a preferential seniority under a contract provision which has no relevance to terms and conditions of work or the normal and usual subjects of contracts between union and employer" (R. 37).

By so holding the Court of Appeals has assumed jurisdiction over an area which under the Labor Management Relations Act, 1947, is reserved to the exclusive jurisdiction of the National Labor Relations Board which has been established as the public authority to make determinations as to what are appropriate subjects for collective bargaining, to be negotiated in contracts between unions and employers. The instant decision is in conflict with this well established administrative and judicial practice, which conflict should be resolved by this court. *Inland Steel Co. v. N. L. R. B.*, 170 F. 2d 247, cert. denied, 336 U. S. 960; *Cross and Co., Inc. v. N. L. R. B.*, 174 F. 2d 875.

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PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

Petitioner, International Union, UAW-CIO, prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Sixth Circuit, entered in the above-entitled case on March 3, 1952, and that court's denial of the petitions for re-hearing, entered in the above-entitled case on April 15, 1952.

OPINIONS BELOW

The order of the District Court overruling plaintiff's motion for summary judgment and sustaining the defendants' motions for summary judgment (R. 26) is unreported. The opinion of the Court of Appeals (R. 30) is reported in 195 F. 2d 170.

JURISDICTION

The defendants' petitions for re-hearing were denied on April 15, 1952 (R. 69). The jurisdiction of this court is invoked under 28 U. S. C., Section 1254 (1).

QUESTIONS PRESENTED

1. Whether a federal District Court and a United States Court of Appeals have jurisdiction to determine whether a collective bargaining representative by the negotiation of certain seniority provisions has breached its statutory obligation of non-discriminatory representation under the Labor Management Relations Act, 1947, in an action brought without resort to the administrative procedures of the National Labor Relations Board by one of the employees who falls under the group represented by the collective bargaining representative.

2. Whether a seniority system under a collective bargaining agreement which grants seniority credit equal to the length of their war service to World War II veterans with no prior service with the employer is arbitrary and discriminatory and therefore invalid.

STATUTES INVOLVED

The pertinent statutory provisions appear in Appendix A, *infra*.

STATEMENT

Following World War II the defendant collective bargaining representative (petitioner in this proceeding) and the defendant employer entered into successive collective bargaining agreements, the seniority sections of which provided that World War II veterans be accorded seniority credit for the time spent in war service in the armed forces. (The relevant contract provisions appear in the Record at pages 13-22). These provisions were negotiated as part of a comprehensive veterans' readjustment program followed by many labor unions and employers and supported and endorsed by both public and private agencies concerned with veterans' affairs. (See Appendices B, C, and D.)

The plaintiff, Huffman, entered the employ of the company on September 23, 1943, at the employer's "Louisville Works". He was inducted into military service on November 18, 1944, and was discharged from such service on July 1, 1946. Upon timely application he was reemployed by the Ford Motor Company and has continued in its service since (R. 6, 7). He brought this action individually and on behalf of a class on February 21, 1951, alleging that he and the class were unreasonably prejudiced in their seniority standing by the operation of the contract clauses granting seniority credit for time spent in the armed forces to veterans with no prior service with the company (R. 7). He alleged further that these contract clauses impaired his seniority status as preserved for him by the Selective Training and Service Act (50 U. S. C., Section 308) and that they were invalid because they

were outside the scope of the authority of the statutory collective bargaining agent to negotiate (R. 7, 8). Motions for summary judgment were filed by all parties and on May 23, 1951, the District Court sustained the defendants' motions, holding in part:

> "* * * The Court * * * is of the opinion that the collective bargaining agreement expresses an honest desire for the protection of the interests of all members of the union and is not a device of hostility to veterans. The Court finds that said collective bargaining agreement sets up a seniority system which the Court deems not to be arbitrary, discriminatory or in any respect unlawful" (R. 26).

Upon plaintiff's appeal the court below reversed the judgment of the District Court. Under authority of *Fishgold v. Sullivan Drydock and Repair Corp.*, 328 U. S. 275, it upheld the District Court's ruling that no right of plaintiff secured under the Selective Training and Service Act of 1940, U. S. C., Section 308, had been violated (R. 33). However, it held the seniority system as applied to Huffman to be discriminatory within the meaning of *Steele v. L. & N. Rd. Co.*, 323 U. S. 192 (R. 37, 38). McAllister, Circuit Judge dissented and stated:

> "I am of the opinion that the order of the district court dismissing appellant's petition should be affirmed for the reasons, as therein set forth, that the collective bargaining agreement expressed an honest desire for the protection of the interests of all members of the union; that it was not a device of hostility to veterans; and that the seniority system therein provided was not arbitrary, discriminatory, or unlawful" (R. 38).

The Court below dismissed defendants' petitions for rehearing on April 15, 1952 (R. 69).

SPECIFICATION OF ERRORS TO BE URGED

The United States Court of Appeals for the Sixth Circuit erred:

1. In failing to hold that the District Court and the United States Court of Appeals lacked jurisdiction to determine whether a collective bargaining representative by the negotiation of certain seniority provisions has breached its statutory obligation of non-discriminatory representation under the Labor Management Relations Act, 1947, in an action brought without resort to the administrative procedures of the National Labor Relations Board by one of the employees who falls under the group represented by the collective bargaining representative.

2. In holding that the seniority system granting seniority credit to all World War II veterans equal to the period of their military service is discriminatory as to Huffman and those similarly situated, and not in the interest of the union as a whole.

3. In failing to hold that the seniority system granting seniority credit to all World War II veterans equal to the period of their military service was a lawful and non-discriminatory arrangement which it was appropriate for the defendant Company and Union to negotiate and which represents a fair and reasonable solution of an important social and industrial problem.

4. In reversing the order of the District Court.

4. The decision of the Court of Appeals is in conflict with decisions of the National Labor Relations Board which assert an administrative remedy for discrimination by the collective bargaining representative. The decision therefore violates the well established doctrine requiring the exhaustion of administrative remedies.

The Court of Appeals, in its opinion, relies as authority for its decision on *Steele v. L. & N. Rd. Co.*, 323 U. S. 192. That case arose under the Railway Labor Act, 45 U. S. C., Sections 151-188, and involved *hostile* discrimination based on color by a statutory collective bargaining representative. The instant case arises under the Labor Management Relations Act, 1947. It involves a carefully planned and widely endorsed system of granting special seniority benefits to all veterans of World War II, entailing no hostile discrimination towards anyone. Such a strained application of the *Steele* case suggests that that case is now ripe for limitation by this Court.

This Court's attention is drawn to the fact that the *Steele* case, and other decisions applying its principle, involved collective bargaining representatives deriving their authority (and hence their concomitant obligations) under the Railway Labor Act. That statute, unlike the Labor Management Relations Act, 1947, here involved, provides no administrative remedy to an employee who is discriminated against, thus making a strong case for granting immediate judicial relief, since an employee would otherwise be without any remedy. In contrast, the administrative machinery set out in the Labor Management Relations Act, 1947, provides adequate remedies before the National Labor Relations Board in those instances where the collective bargaining representative has

breached its statutory obligations. As was argued above, the Court below held that an unfair labor practice has been committed by the union. Huffman, therefore, had available the remedy of filing an unfair labor practice before the National Labor Relations Board. Further, the Board, *even in the absence of a finding that a specific unfair labor practice was committed*, has asserted the existence of an administrative remedy to correct discriminatory practices by labor organizations. Thus, it follows that, in contrast to cases arising under the Railway Labor Act, there existed here an administrative remedy which was not but should have been resorted to even if the alleged discrimination here complained of is not a specific unfair labor practice within the meaning of the Act. Thus, the National Labor Relations Board in the case of *RKO Radio Pictures, Inc.*, 61 NLRB 112, in a representation proceeding, held that a certification which it had issued would be rescinded if it were shown that non-discriminatory representation had been denied to any group of employees in the bargaining unit. The Board in that case announced:

> "It is with deep concern, therefore, that we note intimations appearing in the record concerning the possibility that the unions may indulge in reprisals designed to prevent persons who have customarily performed both acting and extra work from continuing to do so. It should be emphasized in this regard that it is the duty of the exclusive representative of the employees in an appropriate bargaining unit to represent all employees therein without hostile discrimination and with a view to the promotion of their best interest. (Citations.)
>
> "Should either the Guild or the Independent engage in such restrictive practices or otherwise circumvent the objectives of the Board inherent in this decision, the Board will not regard itself as pre-

> cluded, upon consideration of the circumstances thus presented, from taking appropriate remedial action, including either a redetermination of the bargaining unit or revocation of the certification herein."

To the same effect is *Southwestern Portland Cement Company*, 61 NLRB 1217. A similar holding may also be found in the case of *Larus and Bro. Company, Inc.*, 62 NLRB 1075, where the Board stated:

> "* * * we have conceived it to be our duty under the statute to see to it that any organization certified under Sec. 9 (c) as the bargaining representative, acted as a genuine representative of all the employees in the unit.
>
> "If it were not for the additional circumstance set forth below we should rescind the AFL certification."

The Board decided this case, which was a representation proceeding, in part on the authority of the *Steele* case and noted specifically that the policies which it was enforcing had *not* been developed administratively under the Railway Labor Act.

The existence of such administrative remedies clearly means that the *Steele* case is inapplicable to actions arising under the Labor Management Relations Act, 1947, in the absence of the exhaustion of these administrative remedies. This court has stated that it is a "long-settled rule of judicial administration that no one is entitled to judicial relief for a supposed or threatened injury until the prescribed administrative remedy has been exhausted". *Myers v. Bethlehem Shipbuilding Corp.*, 303 U. S. 41, 58 S. Ct. 459. The instant decision is thus in conflict with this rule and with the decisions of the National Labor Rela-

tions Board asserting the existence of these remedies. This court should take jurisdiction of this case in order to clarify the limitations of the *Steele* case and to resolve the conflict created by the Court of Appeals in its decision.

5. The decision of the Court of Appeals, in holding the seniority provisions here under attack to be discriminatory, is in conflict with decisions of the War Labor Board recommending and approving similar seniority provisions.

The War Labor Board on numerous occasions recommended to unions and employers the incorporation into collective bargaining agreements of seniority provisions relating to veterans similar to those held to be discriminatory by the Court below in the instant case. See *Murray Company, Dallas, Texas; United Steel Workers (CIO);* Case #8-D-381, 14-742; June 5, 1945; Regional War Labor Board 8; *Firestone Tire and Rubber Company, Aircraft Division, Atlanta, Georgia; United Auto Workers (CIO);* Case #111-12560-D; May 15, 1945; Regional War Labor Board 4; *J. H. Williams and Company, Buffalo, N. Y.; Office and Personnel Workers (CIO);* Case #111-12858-D (1659); September 5, 1945; Regional War Labor Board for New York. In the last named case the Board approved the following clause:

> "In the case of honorably discharged veterans of World War II who go to work at J. H. Williams without previous employment in the company, such employees after 30 days' trial, shall be credited with seniority equivalent to their time spent in the armed forces of the United States."

The Second Regional Board ordered this same clause in another case, involving the *United Electrical Workers and the Ackerman-Gould Company;* Case #111-15368-D; October 4, 1945. For discussion of these cases, see *Bureau of National Affairs Employment Reporter,* 56:11; 56:18, 56:20.

The negotiation of seniority clauses of the type here under attack therefore represented a policy approved by a branch of the federal goverment. The Court of Appeals now holds that a labor organization in pursuing this policy has violated its statutory obligations under the Labor Management Relations Act, 1947. This holding has created a conflict which should be resolved by this court.

6. The decision of the Court of Appeals, in holding that the seniority provisions granting all World War II veterans seniority for the period spent in the armed forces are discriminatory and void, so misapplied the case of Steele v. L. & N. Rd. Co., 323 U. S. 192, as to be in conflict with that decision, thus indicating the need for limitation of that case by this Court.

The provisions here under attack, which grant seniority credit to all World War II veterans, are not discriminatory within the meaning of the Court's decision in the *Steele* case and should have been upheld on the authority of *Aeronautical Lodge v. Campbell,* 337 U. S. 521. In the *Steele* case, hostile discrimination against Negroes was held to be unlawful. In the instant case, all World War II veterans are treated alike and Ford employees, whether veteran or non-veteran, equally contributed seniority benefits to veterans not previously employed by Ford. This was done for the benefit of the entire union membership within

the meaning of *Aeronautical Lodge v. Campbell, supra,* in order to avoid conflict between veterans and non-veterans during the postwar period, as well as to assure like treatment of all World War II veterans.

The serious and severe friction and strife which took place between veterans and organized labor after World War I led, early during World War II to the preparation and adoption by labor organizations, veterans organizations and employer associations of a comprehensive program designed to avoid repetition of the unfortunate World War I experiences. See *The Public Reaction to the Returned Service Man After World War I;* U. S. Department of Labor, Bureau of Labor Statistics, Historical Study No. 73, Washington, 1944, p. 23 ff. It was intended that this program be in harmony with and supplemental to the legislative efforts of the Congress to protect employment and seniority rights of World War II veterans. One aspect of this program was particularly designed to benefit veterans who fell beyond the scope of the protection which the Congress saw fit to grant through legislation. This aspect is set out in Paragraph 13 of a publication of the Retraining and Reemployment Administration of the United States Department of Labor entitled *Statement of Employment Principles,* which publication is attached to this petition as Appendix B. Paragraph 13 of that publication provides, as follows:

> "*Newly hired veterans* who have served a probationary period and qualified for employment *should be allowed seniority credit,* at least for purposes of job retention, *equal to time spent in the armed services* plus time spent in recuperation from service-connected injuries or disabilities either through hospitalization or vocational training." (Emphasis added.)

The wide endorsement of this policy may be observed from the list of organizations represented on the Advisory Committee to the Retraining and Reemployment Administration which includes Railway Labor Executives Association, National Association of Manufacturers, U. S. Chamber of Commerce, U. S. Department of Labor, Business Advisory Counsel to the Secretary of Commerce, American Legion, Disabled American Veterans, Veterans of Foreign Wars, American Federation of Labor and Congress of Industrial Organizations. The wide extent to which this policy was followed in the negotiation of collective bargaining agreements by labor organizations is discussed below.

We submit that the well and widely considered reasons supporting the policy which has been held to be discriminatory and invalid, serve completely to discredit such holding and serve further to illustrate the total inapplicability of the *Steele* case.

The negotiation of the seniority clauses here under attack represents a decision on the part of the defendants to make well deserved provision for all World War II veterans. Consideration for training and qualifications attained while in military service was accorded such veterans. It was decided to treat a veteran without prior service with the company as one whose entry into employment was delayed by military service and to treat the event of his induction into service as equivalent to having hired in at that time. It was assumed that the majority of the beneficiaries of these seniority clauses would probably be youthful volunteers and the clauses represent an effort to avoid penalizing early military service by not letting it operate to defer the accumulation of seniority

which might otherwise have accumulated. This course was adopted even though it afforded some slight prejudice to the few men who, after June 21, 1941, and after the President declared a state of unlimited national emergency, first hired in. The man who voluntarily or otherwise was early in military service was rewarded, and only at the expense of people who in the same period of national emergency headed for the security of a factory and possible deferment from the draft. Furthermore, during World War II, a considerable number of married women and other older persons were hired by employers engaged in war production. It was the belief of the defendants that in the face of the predicted decrease in employment during the immediate postwar period, veterans should be given preference in job security over such persons who in all probability were in smaller actual need of remunerative employment. The seniority clauses here under attack aided in accomplishing that purpose.

These same considerations persuaded Congress to give similar credit for time spent in military service to *all* World War II veterans who are civilian employees of the United States government. Veterans Preference Act, 5 U. S. C., Sections 851 to 869. The government in its role as an employer of a large number of people thus recognized and adopted prior military service, irrespective of prior employment, as a valid basis for granting employment and job retention rights. The Court of Appeals, on the other hand, denies the validity of this reasoning with respect to private employers and labor organizations and the union is now told that by adopting policies similar to that of the federal government, it has violated its obligations as a statutory collective bargaining representative under the Labor Management Relations Act, 1947.

If this decision is allowed to stand, obligations under one federal statute are inconsistent with the express policy of another federal statute. It penalizes the defendant for having made an honest and effective effort to avert the clashes which took place between workers and ex-service men after World War I.

Further evidence of the well founded and wide-spread approval from all sources of seniority clauses similar to the ones here under attack can be found in a number of War Labor Board cases approving such clauses, and discussed in a preceding section of this petition.

The discrimination involved in the *Steele* case was unlawful because it was unreasonable and hostile in nature. That decision, however, cannot be read to mean that any effort by the union to draw distinctions and classifications among the employees which it represents is unlawful. The *Steele* case, by analogy, imposed constitutional standards of "equal protection" on the union. These constitutional standards require that distinctions and classifications which are drawn have a reasonable foundation in fact. In this connection, the definition of "reasonable" found in the dissenting opinion of Brandeis, J. in *Quaker Cab Company v. Penna.*, 277 U. S. 389, at 406, is of interest:

> "The equality clause requires merely that the classifications should be reasonable. We call that action reasonable which an informed, independent, just-minded, civilized man could rationally favor."

Applying these criteria in the instant case it is clear that the union has completely satisfied this standard. Not only does the seniority system here under attack have a rational

foundation in fact, but it seems clear that the solution adopted by the negotiating parties here as well as in numerous other similar situations was the most reasonable treatment conceivable. Under these circumstances, it is fatal for a court to substitute its own judgment for that of the negotiating parties. For the court to do so makes it impossible for a large union, representing hundreds of thousands of workers, to engage in collective bargaining. It is inevitable that such a union must represent groups and classifications with divergent interest which must be reconciled fairly in light of the needs of the entire group.

This court has recognized that seniority systems are by nature discriminatory in many respects. *Aeronautical Industrial Lodge 727 v. Campbell*, 337 U. S. 521. Departmental seniority in many instances may impose hardship on those in other departments in case of layoffs. The worker with greater skill, but lesser seniority, is usually discriminated against. On the other hand, many contracts make provisions for exceptional workers, thus discriminating against those with greater length of service. Seniority systems have been based on the number of dependents a worker has. In that case, one with greater length of service but fewer dependents would be "discriminated" against. Unless seniority is artificially defined in terms of length of service on plant-wide basis, a great variety of systematic and regular methods for operating a seniority system is available to the negotiating parties. All such methods must be sustained by a Court insofar as they are rational and do not evidence hostile or unreasonable discrimination against any group. To prevent the negotiating parties from exercising the widest possible discretion in this field would be to render meaningless the collective bargaining process. We submit that the present decision, if allowed to stand, would have this adverse effect.

The reasons which persuaded the negotiating parties to negotiate the clauses here under attack and which prove those clauses to be for the benefit of the entire union may be summarized as follows:

1. The clauses, by assuring all veterans seniority credit for time spent in the armed forces, prevented conflict between veterans and non-veterans.
2. The clauses, by assuring like treatment for all veterans, prevented conflict among various groups and classifications of veterans.
3. The clauses assured that employers and unions alike would benefit from an influx of youthful ex-servicemen as employees and members.

It follows from these considerations that the seniority system held to be discriminatory by the Court below was a reasonable and fair arrangement of the negotiating parties which should have been sustained.

7. The decision of the Court of Appeals is in conflict with this Court's decision in Aeronautical Industrial District Lodge 727 v. Campbell, 337 U. S. 521, and is also in conflict with its own decision in Britt v. Trailmobile Company, 179 F. 2d 569, certiorari denied 340 U. S. 820, in which decision Aeronautical Industrial District Lodge 727 v. Campbell, supra, was properly applied.

This Court has properly recognized the right of a collective bargaining representative to make reasonable seniority arrangements which protect a valid interest of the represented employees and do not evidence hostile discrimination towards any particular group. *Aeronautical District Lodge 727 v. Campbell*, 337 U. S. 521. The United

States Court of Appeals for the Sixth Circuit properly applied the principle of that case in *Britt v. Trailmobile Company*, 179 F.2d 569, in which case the court recognized the power of a collective bargaining representative to make substantial changes in the seniority expectancies of employees within the collective bargaining unit. The Court held at Page 572:

> "The appellants, however, contend that the agreement is discriminatory in that the original Trailmobile working force were permitted to date their seniority rights from the date of employment while in Highland men were forced to accept a later date. *Aeronautical Industrial District Lodge 727 v. Campbell*, 337 U. S. 521, 69 S. Ct. 1287, tells us, however, that the date of employment is not, under the Act, an inflexible basis for determining seniority rights; that discrimination in the process of a collective bargaining agreement which is wholly unrelated to a veteran's absence in the service, is not forbidden by the Act, and that it would be an undue restriction on the process of collective bargaining to forbid changes in collective bargaining arrangements whereby veterans, as well as non-veterans; are benefited by promoting greater protection of their rights and smoother operation of labor-management relations. Collective bargaining is a continuous process and a veteran becomes the beneficiary of those gains the achievement of which is the constant thrust of collective bargaining. Collective bargaining agreements are made by a bargaining agent selected by a majority of the working force and are binding upon all employees. One who benefits as the result of such collective agreements must, in the language of the Oakley case, accept not only its advantages but its limitations."

In the above case the Court of Appeals recognized the right of a collective bargaining representative to remove as many as 10 years from the accumulated seniority of certain employees because a merger had taken place between the employer where those employees had been originally employed and a new employer. In the instant case, no employee is deprived of any seniority which he has accumulated and the action of the union merely accords identical preferential treatment to all veterans of World War II.

The court in the instant case, however, refused to follow its own salutary doctrine and attempts to distinguish *Aeronautical Industrial District Lodge 727 v. Campbell, supra,* on the grounds that the instant seniority arrangement was not for the benefit of the union as a whole and therefore constituted improper, though admittedly not hostile, discrimination against one and in favor of another group of veterans. We submit that this distinction is unfounded and that therefore the instant case is in conflict with the *Aeronautical Lodge* case.

We have already indicated that the unfortunate experience of bitter conflict between veterans and organized labor after World War I, was a compelling argument for the making of special provisions to the benefit of all World War II veterans. This was particularly true in the face of the economic recession and consequent lowered employment anticipated at the end of World War II. These facts created considerable pressure from the public and the press for the negotiation of clauses such as are here under attack. Further, to grant special seniority benefits to one group of veterans (as required by the Selective Training and Service Act) but not to another seemed groundless and designed merely to foster dissatisfaction not only between

veterans and non-veterans but between veterans and veterans, as well. Seniority provisions granting the same benefit to all veterans, irrespective of their pre-induction employment, were therefore the logical and reasonable answer to a serious industrial and social problem, well designed to avoid conflict within the entire union and assuring further that employers and unions, alike would benefit from an influx of youthful ex-servicemen.

We have already indicated that Congress saw fit to enact by means of the Veterans Preference Act, 5 U. S. C., Sections 851-869, and presumably for the same valid reasons, similar provisions for the benefit of all World War II veterans seeking employment or reemployment in the federal civil service. The defendants are now told by the Court of Appeals that this eminently reasonable system of benefiting all who served their country in the armed forces during World War II, because it operates in its details to some slight prejudice of one group, is discriminatory and invalid.

We respectfully, but urgently, submit that such a holding not only violates important and applicable prior holdings, but violates reason and common sense as well. The wide-spread impact of this erroneous decision on well established industrial and social relationships should persuade this court to take jurisdiction over this case.

8. The decision of the Court of Appeals is in conflict with well established state court decisions dealing with seniority rights under collective bargaining agreements. In particular, the decision of the Court of Appeals is in conflict with decisions of the Supreme Court of Michigan on the rights of a labor organization with respect to seniority, thus creating a conflict within the Sixth Circuit on this point of law.

Numerous decisions of the highest courts of several states have recognized that the negotiating parties in industrial relations must be given the widest possible discretion in order that collective bargaining may function smoothly and without undue restriction. These decisions hold that if the Union's action in connection with seniority arrangements is reasonable, and not arbitrary and capricious the courts should not substitute their judgment for that of the negotiating parties. Thus, it was held in *Hartley v. Brotherhood, etc.*, 283 Mich. 201, 277 N. W. 885 (1938) that it was proper in view of economic conditions to reduce drastically the seniority rights of married women, thus making certain that those who needed employment most, would hold it longest. The Court in upholding the action of the Union said:

> "This agreement was executed for the benefit of all the members of the brotherhood and not for the individual benefit of the plaintiff. When by reason of changed economic circumstances, it became apparent that the earlier agreement should be modified in the general interest of all members of the brotherhood it was within the power of the latter to do so, notwithstanding the result thereof to plaintiff * * *.
>
> "A different situation might be presented had the agreement of 1932 been accomplished as a result of

bad faith, arbitrary action or fraud directed at plaintiff on the part of those responsible for its execution."

To the same effect is *Capra v. Local Lodge*, 76 P. 2d 739, where it was held that " in the absence of fraud or caprice, courts cannot interfere." See also *Shaup v. Grand International Brotherhood, etc.* 135 S. 327; *Ryan v. New York Central Railroad*, 255 N. W. 365; *Aden v. L. & N. R. R.*, 276 S. W. 511; *Donovan v. Travers*, 285 Mass. 167, 188 N. E. 705; *Yazoo v. Mitchell*, 173 Miss. 594; *Burton v. Oregon-Washington R. R.*, 148 Ore. 648, 38 P. 2d 72. These decisions, and particularly, the Michigan decisions, were recently followed by the Supreme Court of Michigan in the case of *Lester Mayo, et al. v. Great Lakes Greyhound Lines, et al.*, 333 Mich. 205 (decided April 7, 1952).

These decisions are in harmony with the standard established and followed in *Steele v. L. & N. Railroad Company*, 323 U. S. 192; *Aeronautical Lodge v. Campbell*, 337 U. S. 521; and *Britt v. Trailmobile Company*, 179 F. 2d 569. We have already shown that the Court below in the instant case fails to apply the standards so established. It follows that the decision of the Court below is also in conflict with a large number of state court decisions governing collective bargaining conduct in relation to seniority provisions. This is particularly true with respect to the decisions of the Supreme Court of Michigan cited above, which decisions are in direct conflict with the instant decision of the Court of Appeals for the Sixth Circuit, of which Circuit Michigan is a part. The decision of the Court below, if allowed to stand, would thus result in wide-spread confusion as to the rights and power of

negotiating parties in industrial relations and has created doubt in an important phase of the law of labor relations which this Court should remove.

9. The decision of the Court of Appeals, if allowed to stand, will have a wide-spread impact on existing industrial relations, affecting rights of hundreds of thousands of veterans and non-veterans, invalidating hundreds of seniority clauses, and requiring the rearrangement of hundreds of seniority lists.

Statistical information in this field is necessarily incomplete. Nevertheless, the data which is available and some of which is set out in Appendix C, *infra*, indicates that the seniority clauses under attack in the instant litigation were negotiated pursuant to a widely established and well considered practice. Thus, it appears from research conducted by the Bureau of Labor Statistics, the results of which research are reported in Appendix C, that over one hundred collective bargaining agreements covering over two hundred thousand workers, contained clauses similar to the ones held invalid by the court below. In addition, the UAW-CIO alone negotiated in the neighborhood of three hundred seniority clauses of the type here under attack, with employers such as: Ford Motor Company, Kaiser Frazer Corporation, Packard Motor Car Company, Hudson Motor Car Company, Chrysler Corporation, Bendix Aviation Corporation, Electric Auto-Lite Company and many others. These contracts involve in the neighborhood of five hundred thousand employees of whom approximately one-third are World War II veterans. The UAW-CIO negotiated these clauses pursuant to action at the International Convention of the Union held in 1944, after carefully considering the legality of such

clauses and in view of overwhelming and nation-wide support of such clauses (see Appendices B and D). It is thus perfectly clear that the instant decision affects seniority rights of hundreds of thousands of workers, will require the rearrangement of hundreds of seniority lists, and creates great potential liability among employers and unions alike. Litigation of a similar type is already pending in the United States District Court for the Northern District of Ohio, Western Division, in Civil Action No. 6767, against the Electric Auto-Lite Company and the UAW-CIO. That action is brought on behalf of a class numbering approximately five hundred and alleges damages in excess of $1,000,000.00. It may be presumed that in view of the large number of seniority clauses similar to the ones held invalid by the court below, further litigation of a similar type threatens. These facts, while by no means exhaustive of the situation, should serve to illustrate that the decision below affects a great number of other litigants, both real and potential, in similar situations. It is submitted that in view of that fact and in the light of the considerations presented in the preceding sections of this petition, this vital question should be decided by the Supreme Court of the United States.

CONCLUSION

For the foregoing reasons, this petition for a writ of certiorari should be granted.

Respectfully submitted,

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July 9, 1952.

APPENDIX A

Pertinent Statutory Provisions

VETERANS' PREFERENCE ACT, 5 U. S. C., Section 852 and Section 853:

"852. Examinations; earned ratings; additional credit

In all examinations to determine the qualifications of applicants for entrance into the service ten points shall be added to the earned ratings of those persons included under Section 851 (1), (2), (3), and (5) of this title, and five points shall be added to the earned ratings of those persons included under section 851 (4) of this title; *Provided,* That in examinations for the positions of guards, elevator operators, messengers and custodians competition shall be restricted to persons entitled to preference under this chapter as long as persons entitled to preference are available and during he present war and for a period of five years following the termination of the present war as proclaimed by the President or by a concurrent resolution of the Congress for such other positions as may from time to time be determined by the President. As amended Dec. 27, 1950, c. 1151, 2(a), 64 Stat. 1117."

"853. Credit for experience

In examinations where experience is an element of qualification, time spent in the military or naval service of the United States shall be credited in a veteran's rating where his or her actual employment in a similar vocation to that for which he or she is examined was interrupted by such military or naval service. In all examinations to determine the qualifications of a veteran applicant, credit shall be given for all valuable experience, including exper-

ience gained in religious, civic, welfare, service, and organizational activities, regardless of whether any compensation was received therefor. June 27, 1944, c. 287, 4, 58 Stat. 388."

LABOR MANAGEMENT RELATIONS ACT, 1947, U. S. C., Section 157, Section 158 (b) (1) and Section 160 (a)

"157. Right of employees as to organization, collective bargaining, etc.

Employees shall have the right to self-organization to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section 158 (a)(3) of this title. As amended June 23, 1947, 3:17 p.m. E.D.T. c. 120, Title I, 101, 61 Stat. 140."

"158. Unfair labor practices

(b) It shall be an unfair labor practice for a labor organization or its agents—

(1) to restrain or coerce (a) employees in the exercise of the rights guaranteed in section 157 of this title: *Provided,* that this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein; or (B) an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances."

"160. Preventing of unfair labor practices—Powers of Board generally

(a) The Board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice (listed in section 158 of this title) affecting commerce. This power shall not be affected by any other means of adjustment or prevention that has been, or may be established by agreement, law, or otherwise: *Provided,* That the Board is empowered by agreement with any agency of any State or Territory to cede to such agency jurisdiction over any cases in any industry (other than mining, manufacturing, communications, and transportation except where predominantly local in character) even though such cases may involve labor disputes affecting commerce, unless the provision of the State or Territorial statute applicable to the determination of such cases by such agency is inconsistent with the corresponding provision of this subchapter or has received a construction inconsistent therewith."

U. S. Department of Labor

RETRAINING AND
REEMPLOYMENT ADMINISTRATION

Federal Trade Commission Building
Washington 25, D. C.

STATEMENT OF EMPLOYMENT PRINCIPLES

Introductory Remarks

On VJ-day over twelve million persons were in the Armed Forces of the United States. These men and women had been drawn from every walk of life throughout our Nation. In addition, untold millions were employed either directly or indirectly in the production of the implements of war. Many of these workers had shifted to new industries, or new occupations because of the economic distortions produced by war. The united effort of these groups produced the shattering power which culminated in victories on the European and African Fronts and in the Pacific Islands.

With the termination of hostilities and the resulting demobilization of the Armed Forces and the forces of wartime production, one of the Nation's major problems became the reintegration of our veterans and others whose lives had been disrupted by the war effort into the community and national life. The responsibility for effecting this reintegration lies with Government, management, labor, and every other factor of the national economy, including the displaced workers and the veterans, individually and through their several organizations.

To assist in this process of reintegration, to minimize the competitive disadvantage which is inherent in long-term absence from civilian employment, and to help veterans and other displaced workers to obtain and hold suitable jobs commensurate with their abilities, the employment principles appearing in this brochure are offered for the guidance of Government, management, labor, and every other factor of the national economy.

These principles have been prepared by this Administration after consultation with an Advisory Committee consisting of representatives of labor, management, and veterans' organizations. The membership of this Committee is as follows: American Federation of Labor—Robert Watt, Frank P. Fenton, Boris Shiskin; Congress of Industrial Organizations—Ted F. Silvey and Meyer Bernstein; Railway Labor Executives' Association—A. E. Lyon and E. L. Doyle; Business Advisory Council to the Secretary of Commerce—Cyrus C. Ching and Walter White; National Association of Manufacturers—A. E. Whitehill and John M. Convery; U. S. Chamber of Commerce—T. W. Howard; American Legion—Ralph H. Lavers and Elbert Burns; Disabled American Veterans—Millard W. Rice; Veterans of Foreign Wars—Omar B. Ketchum.

In commenting on these principles, Secretary of Labor Lewis B. Schwellenbach stated that he wholeheartedly endorses the concepts underlying them and expresses the hope that they will be of real assistance to management and labor in all of their discussions.

G. B. ERSKINE
Major General, USMC
Administrator

October 7, 1946.

General Principles Applicable to All

1. All workers should be employed on jobs commensurate with their skills and capacities. Wartime skills, training, and experience of veterans* and workers should always be evaluated in connection with all job opportunities.

*The term "veteran" as used herein means any person who served in the Armed Forces on or after September 16, 1940, and prior to the termination of the present war, and who shall have been discharged or released therefrom under conditions other than dishonorable.

2. Qualification for the job and performance on the job should be key standards for selection and retention of workers. Sex, race, creed, color, or physical impairment should not be factors in the selection or retention of workers or in the amount of compensation paid.

3. Entrance into training of a sufficient number of trainees or learners should be promoted in order that the number of journeymen in the apprenticeable trades and the number of other skilled workers will, within a period of 5 years or less, be at least sufficient to meet current industrial demands. Qualified physically handicapped individuals should be included in apprentice training programs.

4. All positions should be evaluated from the standpoint of minimum physical requirements in order that the physically handicapped may be fully utilized. In addition, appropriate mechanical devices should be installed and special training should be conducted to assist handicapped workers in adjusting and advancing in their jobs.

5. A program of business guidance should be undertaken at the community level in cooperation with Federal, State, and local agencies for the benefit of all persons who are interested in promoting small businesses.

6. The employer and labor group concerned should assume prime responsibility for the proper placement of each employee who cannot continue with his usual or regular work, because of injury or disease suffered while on the job.

7. All unemployed, both veterans and others who participated in the war effort, should actively participate in the search for suitable employment and thereby become contributing factors in the national peacetime economy.

Principles Applicable Only to Veterans.

8. All veterans having reemployment rights under Federal statutes should be accorded these statutory rights *as a minimum.*

9. When recruiting in excess of lay-off commitments, employers, with due regard to collective bargaining or other formal agreements should give preference to qualified veterans.

10. Employers should promote and establish in-plant training programs for the benefit of reemployed veterans in order that these workers may assume their places at the competitive level of employees having the same seniority who received promotions while the veterans were serving in the Armed Forces.

11. Related training and experience received by veterans while in the armed services should be accredited toward shortening the apprenticeable periods.

12. Upon their return to work, veterans should be allowed seniority credit and participation in related benefits offered by employers equal to their previous tenure of employment plus time spent in the armed services and in recuperation from service-connected injuries or disabilities either through hospitalization or vocational training.

13. Newly hired veterans who have served a probationary period and qualified for employment should be allowed seniority credit, at least for purposes of job retention, equal to time spent in the armed services plus time spent in recuperation from service-connected injuries or disabilities either through hospitalization or vocational training.

14. Leaves of absence should be granted to veterans having reemployment rights who apply for reinstatement within the statutory period but who wish to take advantage of the educational or vocational rehabilitation features of any Federal or State enactment for training connected with any jobs in their employer's organization. Such leaves of absence should not jeopardize veterans' statutory rights.

15. Physically handicapped veterans should be given the highest employment priorities to jobs within their physical capacities and abilities. Where necessary, employment policies and union agreements should be revised to allow for this priority.

16—43646-1 GPO

(Appendix C)

U. S. DEPARTMENT OF LABOR
BUREAU OF LABOR STATISTICS
WASHINGTON 25, D. C.

June 30, 1952

In reply, please
refer to No. 500

Mr. Harold E. Cranefield
General Counsel
United Automobile Workers (CIO)
8000 East Jefferson Avenue
Detroit 14, Michigan

Dear Mr. Cranefield:

In compliance with your request, we have reviewed a substantial number of collective bargaining agreements most of which were in effect in 1947. Among these agreements were 102 providing seniority for veterans not previously employed. Employment figures were available for 99 of these agreements covering 229,550 workers.

We are attaching copies of examples of the kinds of clauses found in these agreements as well as a list of the 102 agreements. The agreements are arranged by company on an industry basis. Some of these clauses were renewed in superseding contracts.

I hope that this information will be useful to you. If we can be helpful in some other way, please do not hesitate to call upon us.

Very truly yours,

H. M. Douty

H. M. Douty
Chief, Division of Wages and
Industrial Relations

Enclosures - 2

APPENDIX C (continued)

AGREEMENTS WITH CLAUSES PROVIDING SENIORITY FOR VETERANS NOT PREVIOUSLY EMPLOYED

TEXTILE MILL PRODUCTS

Company	Location	Number of Employees
1. American Thread Co.	Willimantic, Connecticut	1,500
2. American Thread Co.	Easthampton, Massachusetts	300
3. American Thread Co.	Holyoke, Massachusetts	282
4. Amoskeag-Lawrence Mills, Inc.	Manchester, New Hampshire	297
5. Balata, Victor, and Textile Belting Co.	Northampton, Pennsylvania	185
6. Bates Manufacturing Co.	Augusta, Maine	1,450
7. Bates Manufacturing Co.	Lewiston, Maine	2,000
8. Bates Manufacturing Co.	Saco, Maine	1,500
9. Berkshire Fine Spinning Associates, Inc.	Adams, Massachusetts	2,300
10. Berkshire Fine Spinning Associates, Inc.	Albion, Rhode Island	575
11. Berkshire Fine Spinning Associates, Inc.	Anthony, Rhode Island	475
12. Blumenthal, Sidney, and Co.	Shelton, Connecticut	730
13. Branch River Wool Combing Co., Inc.	North Smithfield, Rhode Island	550
14. Burlington Mills, Inc.	Burlington, Wisconsin	225
15. Chandler Oil Cloth and Buckram Co., Inc.	East Taunton, Massachusetts	80
16. Cluett, Peabody and Co., Inc.	North Grosvenor-Dale, Connecticut	917
17. Continental Mills	Lewiston, Maine	1,350
18. Crown Manufacturing Co.	South Attleboro, Massachusetts	650
19. Crown Manufacturing Co.	Pawtucket, Rhode Island	700
20. Erwin Cotton Mills Co.	Durham, North Carolina	1,980
21. Erwin Cotton Mills Co.	Erwin, North Carolina	2,280
22. Fall River Textile Mfgrs. Assn. and New Bedford Cotton Mfgrs. Assn.	New Bedford, Massachusetts	30,000
23. Fitchburg Yarn Co.	Fitchburg, Massachusetts	575
24. Forstmann Woolen Co.	Intrastate—New Jersey	3,364
25. Goodyear Clearwater Mills	Rockmart, Georgia	1,650
26. High Rock Knitting Co.	Philmont, New York	200

APPENDIX C (continued)

AGREEMENTS WITH CLAUSES PROVIDING SENIORITY FOR VETERANS NOT PREVIOUSLY EMPLOYED

TEXTILE MILL PRODUCTS (Continued)

Company	Location	Number of Employees
27. Hudson Worsted Co.	Hudson, Massachusetts	600
28. Maplewood Yarn Mills, Inc.	Fall River, Massachusetts	315
29. Maverick Mills	East Boston, Massachusetts	750
30. Nashua Manufacturing Co. (Nashua Division)	Nashua, New Hampshire	——
31. Nashua Manufacturing Co. (Jackson and Nashua Mills)	Nashua, New Hampshire	4,100
32. Naumkeag Steam Cotton Co.	Salem, Massachusetts	1,512
33. Pepperell Manufacturing Co.	Biddeford, Maine	1,500
34. Pepperell Manufacturing Co.	Lewiston, Maine	1,264
35. Powdrell and Alexander, Inc.	Danielson, Connecticut	1,200
36. Putnam Mills Corp.	Putnam, Connecticut	260
37. Raycrest Mills, Inc.	Pawtucket, Rhode Island	600
38. Stehli and Co., Inc.	Lancaster, Pennsylvania	375
39. Taunton Coating Mills, Inc.	Taunton, Massachusetts	100
40. Taunton Wool Stock Co.	Taunton, Massachusetts	28
41. Textile Thread Co.	Watertown, Massachusetts	84
42. United States Rubber Co.	New Bedford, Massachusetts	800
43. Verney Taunton Mills, Inc.	East Taunton, Massachusetts	300
44. Westover Fabrics, Inc.	West Warwick, Rhode Island	54
45. Erwin Cotton Mills	Cooleemee, North Carolina	——

Agreements No. 25 and 27 are with the United Textile Workers (AFL). The remaining 43 agreements are with Textile Workers Union (CIO).

APPENDIX C (continued)

AGREEMENTS WITH CLAUSES PROVIDING SENIORITY FOR VETERANS NOT PREVIOUSLY EMPLOYED

FURNITURE AND FIXTURES

Company	Location	Number of Employees
1. Simmons Company	Kenosha, Wisconsin[1]	3,500
2. Statton Furniture Mfg. Co.	Hagerstown, Maryland[2]	133

TOBACCO MANUFACTURERS

1. Export Leaf Tobacco Co.	Winston-Salem, North Carolina[3]	470
2. Export Leaf Tobacco Co.	Richmond, Virginia[3]	418

MISCELLANEOUS MANUFACTURING

1. Conn, C. G., Ltd.	Elkhart, Indiana[4]	1,000

STONE, CLAY AND GLASS PRODUCTS

1. Asbestos Mfg. Co.	Huntington, Indiana[4]	350

SERVICES

1. Amalgamated Bank of New York	New York, New York[5]	61

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[1] Agreement with Federal Labor Union (AFL).

[2] Agreement with Furniture Workers (CIO).

[3] Agreement with Food, Tobacco and Agricultural Workers, affiliated with CIO in 1947.

[4] Agreement with United Automobile Workers (CIO).

[5] Agreement with Office and Professional Workers, affiliated with CIO in 1947.

APPENDIX C (continued)

AGREEMENTS WITH CLAUSES PROVIDING SENIORITY FOR VETERANS NOT PREVIOUSLY EMPLOYED

PRIMARY METAL INDUSTRIES

Company	Location	Number of Employees
1. American Zinc & Chemical Co.	Langeloth, Pennsylvania[1]	825
2. Bohn Aluminum & Brass Corp.	Detroit, Michigan[2]	800
3. Bohn Aluminum & Brass Corp.*	Detroit, Michigan[2]	1,500
4. Buffalo Bolt Co.	North Tonawanda, New York[3]	1,081
5. Campbell, Wyant & Cannon Foundry Co.	Muskegon, Michigan[2]	2,508
6. Campbell, Wyant & Cannon Foundry Co.*	South Haven, Michigan[2]	250
7. Lebanon Steel Foundry	Lebanon, Pennsylvania[4]	500

* Different Locals.

[1] Agreement with Mine, Mill & Smelter Workers, affiliated with CIO in 1947.
[2] Agreement with United Automobile Workers (CIO).
[3] Agreement with United Electrical Workers, affiliated with CIO in 1947.
[4] Agreement with Steelworkers (CIO).

APPENDIX C (continued)

AGREEMENTS WITH CLAUSES PROVIDING SENIORITY FOR VETERANS NOT PREVIOUSLY EMPLOYED

FABRICATED METAL PRODUCTS

(Except Ordnance, Machinery, and Transportation Equipment)

Company	Location	Number of Employees
1. American Hardware Co.	New Britain, Connecticut[1]	3,000
2. Bassick Company	Bridgeport, Connecticut[1]	1,100
3. Benjamin Electric Mfg. Co.	Des Plaines, Illinois[1]	475
4. City Auto Stamping Co.	Toledo, Ohio[2]	489
5. Sargent & Co.	New Haven, Connecticut[1]	1,600
6. United Stove Co.	Ypsilanti, Michigan[2]	750
7. Wood, John Mfg. Co.	Chicago, Illinois[1]	128
8. Young, L. A. Spring & Wire Corp.	Detroit, Michigan[2]	700
9. Young, L. A. Spring & Wire Corp.*	Detroit, Michigan[2]	2,400

* Different Local.

[1] Agreement with United Electrical Workers, affiliated with CIO in 1947.
[2] Agreement with United Automobile Workers (CIO).

APPENDIX C (continued)

AGREEMENTS WITH CLAUSES PROVIDING SENIORITY FOR VETERANS NOT PREVIOUSLY EMPLOYED

ELECTRICAL MACHINERY, EQUIPMENT, AND SUPPLIES

Company	Location	Number of Employees
1. B-L Electric Manufacturing Co.	St. Louis, Missouri[1]	13
2. Colonial Radio Corp.	Buffalo, New York[1]	1,600
3. The Dunmore Co.	Racine, Wisconsin[2]	125
4. Electric Auto-Lite Co.	Toledo, Ohio[2]	4,500
5. Electric Voice, Inc.	South Bend, Indiana[1]	—
6. Electrical Controller & Mfg. Co.	Cleveland, Ohio[1]	325
7. Emerson Electric Mfg. Co.	St. Louis, Missouri[1]	3,500
8. Essex Wire Corp.	Fort Wayne, Indiana[1]	398
9. Landers, Frary & Clark	New Britain, Connecticut[1]	3,080
10. The Magnavox Co.	Fort Wayne, Indiana[1]	1,600
11. Packard Manufacturing Co.	Indianapolis, Indiana[3]	650
12. Picker X-Ray Corp.	Cleveland, Ohio[1]	450
13. The Singer Manufacturing Co.	South Bend, Indiana[1]	1,556
14. Ward Leonard Electric Co.	Mt. Vernon, New York[1]	700

[1] Agreement with United Electrical Workers, affiliated with CIO in 1947.
[2] Agreement with United Automobile Workers (CIO).
[3] Agreement with Steelworkers (CIO).

APPENDIX C (continued)

AGREEMENTS WITH CLAUSES PROVIDING SENIORITY FOR VETERANS NOT PREVIOUSLY EMPLOYED

MACHINERY (EXCEPT ELECTRICAL)

Company	Location	Number of Employees
1. Acmeline Manufacturing Co.	Traverse City, Michigan[1]	80
2. Allis-Chalmers Manufacturing Co.	West Allis, Wisconsin[1]	16,000
3. American Blower Corp.	Detroit, Michigan[1]	955
4. E. W. Bliss Co.	Toledo, Ohio[1]	700
5. Joy Manufacturing Co.	Michigan City, Indiana[1]	425
6. Micromatic Hone Corp.	Detroit, Michigan[1]	300
7. Minneapolis-Moline Power Implement Co.	Intrastate—Minnesota[2]	150
8. Regina Corp.	Rahway, New Jersey[2]	117
9. Saco-Lowell Shops	Intrastate—Maine[3]	2,744
10. W. W. Sly Manufacturing Co.	Cleveland, Ohio[2]	142

[1] Agreement with United Automobile Workers (CIO).
[2] Agreement with United Electrical Workers, affiliated with CIO in 1947.
[3] Agreement with Textile Workers Union (CIO).

APPENDIX C (continued)

AGREEMENTS WITH CLAUSES PROVIDING SENIORITY FOR VETERANS NOT PREVIOUSLY EMPLOYED

TRANSPORTATION EQUIPMENT

Company	Location	Number of Employees
1. American Locomotive Co.	Schenectady, New York[1]	5,000
2. Bell Aircraft Corp.	Intrastate—New York[2]	900
3. Bendix Aviation Corp.	Interstate[2]	2,500
4. Chrysler Corp.	Interstate[2]	65,000
5. Houdaille-Hershey Corp.	Interstate[2]	430
6. Hudson Motor Car Co	Detroit, Michigan[2]	14,255
7. Hudson Motor Car Co.*	Detroit, Michigan[2]	150
8. McCord Corp.	Plymouth, Indiana[2]	280
9. North American Aviation, Inc.	Interstate[2]	6,641
10. Schult Corp.	Elkhart, Indiana[2]	289

* Covers Office Employees.

[1] Agreement with Steelworkers (CIO).
[2] Agreement with United Automobile Workers (CIO).

APPENDIX C (continued)

CLAUSES PROVIDING FOR SENIORITY FOR VETERANS NOT PREVIOUSLY EMPLOYED

SECTION 13—MILITARY SERVICE

A. During any period of Selective Service, • • •

B. A new employee war veteran employed by the Employer within six (6) months of his discharge from the Service, who has not in this six (6) month period worked elsewhere, and who has completed his trial period with the Employer as defined in Section 3-B, shall be entitled to additional seniority to the extent of one (1) year; provided that his length of service in the Armed Forces was over one (1) year. If his length of service in the Armed Forces was less than one (1) year, he shall receive seniority credit after his trial period equal to his length of service in the Armed Forces. This clause shall not apply to veterans who re-enlist.

CLAUSES PROVIDING FOR SENIORITY FOR VETERANS NOT PREVIOUSLY EMPLOYED

NEW EMPLOYEES WITH MILITARY SERVICE

New employees who subsequent to May 1, 1940, during the life of, and who are subject to the Selective Training and Service Act of 1940, have performed training or service in the land or naval forces or the merchant marines of the United States or its allies and who are employed by the Company within one year of the date of their honorable discharge but have no seniority rights in this or any

other company, shall be entitled to the following special privileges unless they have received such privileges from another company:

(a) After completion of six months' employment, they shall be granted additional seniority, equivalent to the length of such service.

CLAUSES PROVIDING FOR SENIORITY FOR VETERANS NOT PREVIOUSLY EMPLOYED

ARTICLE VII—SENIORITY

* * * * * *

Section 8. * * *

Veterans of World War II who were not formerly employed by the ..... Company and who entered the service after May 1, 1940, shall, when employed by the Company, have seniority with the Company equivalent to their period of service in the armed forces, provided that they are employed by the Company within six (6) months within the date of their discharge and provided further they have not worked for another company for more than ninety (90) continuous days and provided further they have not exercised this privilege with any other company. In cases of mental or physical incapacity the six (6) months time limit may be extended. The Company will inform the Union Bargaining Committee of the names of employees to whom seniority is granted under this paragraph. During the first sixty (60) days of work with the Company, they shall be considered probationary employees.

* * *

After they have finished the probationary period they shall be entered on the seniority list of their division and shall rank for seniority from the day they entered the service.

As with veterans who were formerly employed by the Company, non- * * * Company veterans must, before they are hired, furnish certificates of satisfactory completion of service and be qualified for the job.

CLAUSES PROVIDING FOR SENIORITY FOR VETERANS NOT PREVIOUSLY EMPLOYED

EXHIBIT "C"

VETERANS' AGREEMENT

3. Any veteran of the present war who was not employed by any person or company at the time of his entry into the service of the land or naval forces or the merchant marine of the United States and who is hired by the Company after he is relieved from training and service in the land or naval forces or after completion of service in the merchant marine shall, upon having been employed for the probationary period for all new employes in this contract, and not before, receive seniority credit for the period of such service subsequent to May 1, 1940 provided:

(a) Such veteran shall apply for and obtain such employment within 12 months from the time he is relieved from such training and service; it being agreed that if such veteran is unable to work by reason of disability during said period of 12

months, his application may be made within ninety (90) days from the time his disability has ended.

(b) Such veteran shall not have previously exercised this right in any plant of this or any other company.

(c) Such veteran shall not be employed for the purpose of bringing about the displacement of another worker.

(d) A veteran so employed shall submit his service discharge papers to the Company at the end of aforesaid probationary period of employment and the Company shall place thereon in permanent form a statement showing that the veteran has exercised this right, such statement to be signed by representatives of the Company and the Union.

(e) A veteran who has not worked for the Company before his induction will not be permitted to "bump" a veteran who has, except that he may "bump" those veterans who were hired in by the Company after he was.

CLAUSES PROVIDING FOR SENIORITY FOR VETERANS NOT PREVIOUSLY EMPLOYED

11. *Service in U. S. Armed Forces*

* * * If the Employer hires a returned serviceman who has not previously worked for the Bank, he shall be credited with time spent in the armed forces since September 1, 1940, in computing his seniority in case of layoffs or promotions, provided, however, that the serviceman shall apply for employment within one (1) year after his discharge from service.

CLAUSES PROVIDING FOR SENIORITY FOR VETERANS NOT PREVIOUSLY EMPLOYED

ARTICLE IX—DRAFTEES

3. Any veteran of World War II who was not in the employ of the Company at the time of his entry into the military service of our country and who is employed by the Company within six months after the date of his honorable discharge from Military service shall be granted the following benefits;

(a) After he has been in the continuous employ of the company for one year, for the calculation of vacation, he will be credited with length of service equal to his military service after September 1, 1940.

(b) After he has been in the continuous employ of the Company for six (6) months, for purposes of layoff and recall, he shall be credited with length of service equal to

his military service after September 1, 1940, with a maximum seniority credit of one year.

CLAUSES PROVIDING FOR SENIORITY FOR VETERANS NOT PREVIOUSLY EMPLOYED

ARTICLE XV

EMPLOYMENT AND SENIORITY OF VETERANS

A. EMPLOYEE VETERANS • • •

B. DISABLED EMPLOYEE-VETERANS • • •

C. NON-EMPLOYEE VETERANS

Any veteran of the present war (1) who was not employed by any person or company for a period of ninety (90) days or more immediately preceding his entry into military service, or (2) who, although employed elsewhere than by the Employer within the above specified period, has acquired physical handicaps in military service, is hired by the Employer herein after he is relieved from military service, and not dishonorably discharged, shall, upon having been employed for the probationary period for all new employees as prescribed in this Agreement, receive seniority credit for the period of such military service subsequent to May 1, 1940; provided, however, (a) such non-employee veteran shall have been hired within ninety (90) days from the time he is relieved from military service or, if such veteran is unable to work by reason of physical disability during said period of ninety (90) days, is hired within ninety (90) days from the time his disability shall have ended; and (b) such non-employee veteran shall not be employed for the purpose of bringing about the displacement of another employee.

The provisions of Section C of this Article XV shall apply only to those non-employee veterans hired by the Employer on or after August 15, 1946.

APPENDIX D

RESOLUTION ON VETERANS

Adopted by National CIO Convention, November 22, 1944

WHEREAS, the unity between our fighting men and the working men and women of the production lines who make up the CIO has been built and maintained through our common war effort.

This unity is forged in our common stake in victory over Axis oppression and is born of the fact that workers and fighters in this war are of the same roots in the American people.

Despite malicious attempts to divide the American people on the home front from their sons and brothers on the fighting fronts, this unity has not been broken.

In addition, it must be recalled that 1,500,000 members of the CIO are today serving in the armed forces, using the weapons and supplies produced by their fellow CIO members at home.

The interests of veterans returning from the fighting fronts are identical with those of workers at home, and can only be served through the carrying out of the program of jobs for all and security that has been outlined by the CIO.

This program of jobs and security can only be guaranteed to veterans through the continued existence and strength of industrial unions, which offer them a protection that goes beyond the present provisions of law and a protection that is assured through the operation of collective bargaining contracts; now, therefore, be it

RESOLVED, that (1) the CIO shall continue to press its program for full production, full employment and security for all and assure means of furthering the welfare of workers and veterans and all the people of the United States.

(2) The CIO recommends to its affiliated unions to provide in their collective bargaining agreements that veterans who are employed for the first time in their plants be accorded cumulative seniority rights for the time spent in service since September 1, 1940, the date of the passage of the Selective Service Act.

(3) The CIO and its affiliated unions shall of course continue their present practice of waiving any requirement of initiation fees from those veterans who upon returning to employment desire to become members of our unions.

(4) The CIO and its affiliated unions will protect the accrued seniority of veterans who upon their discharge from the service seek to return to their jobs. In this way the veteran will be entitled to his job on the basis of cumulative seniority including the period in the service. However, we deplore the action of certain administrative officials who have promoted the illusion among veterans that their way of securing jobs is through displacing workers with longer seniority. The application of any such practice would only create a conflict between the veterans of this war and veterans of the last war or between veterans and other workers who were deferred not because of their own request but in the interest of the war effort.

(5) The CIO urges all its affiliated unions to establish committees on a local and national basis to aid veterans in securing jobs, in obtaining the benefits to which they are entitled under various legislative enactments, and in securing all needed aid in retraining, rehabilitation, and other

measures to promote a secure and easy return to civilian life.

(6) The CIO calls upon the administrative agency charged with the responsibility of interpreting the G. I. Bill of Rights to do so liberally so that every returning serviceman and woman can easily obtain education, financial and employment opportunity, and pledges its support behind all needed changes in existing legislation designed to aid veterans.

(7) The CIO pledges to continue to work with established organizations of veterans to further these and all other aims of mutual benefit to veterans and to the people of the United States.